The Full and VVhole Proceedings of the

New High-Court of Justice:

OR THE

Non-such Commission of the Peace, and *Oyer* and *Terminer*, held at the Capital City of the High and Mighty Prince the *Eagle*, near the Forest of *Eppingia*, in the fam'd hollow Oak, being the *Guild-Hall* of the said City, perform'd to Morrow, being the 11*th* of the *Greek* Kalends of the next Month, 1691. and the First Year before His Majesty's Reign: Design'd for the special Preservation of the Peace of *Aviarium*, or the Kingdom of Birds: With the Tryal and Examination of the Two late Notorious Criminals,

The Magpie and Black-Bird.

AT a Grand Match of the Royal Sport of Cock-Fighting in *Rag-Land* Fields, in *Aviarium*, or the Kingdom of Birds, there lately happened a private Quarrel between a Pragmatical, Ambitious, Superstitious *Albanian May-Pye*, and a Phanatical, Covenanting, Seditious *Scotian Black-Bird*: The Contest was for Preheminence, but the Controversie being hot and encreasing, and like to prove dangerous Effects (the *Eagle*, King of Birds, not being in the way) it was appointed that the Two Criminals should be Tryed by a *Non-such* Commission, for the safety of the Kingdom, in the hallow Oak formerly called *Pretorium servile*, midway betwixt the Tripple-Tree, in the Dukedom of *High-Holbourn*, and the Landgraviate of the Forest of *Epingia*, being the *Eagles* Capital City, which was accordingly performed the 11*th* of the *Greek* Kalends. The Judges were L. Chief Justice *Hawk*, Mr. Justice *Cuckow*, and Mr. Justice *Bart*, Two Justices of the Peace for the next Year. There was appointed a Party Jury, half Birds and half Beasts, very fit for the purpose, and most of them having a natural Antipathy against the Two Malefactors.

Their Names are,

Beast.
- Mr. *Weesel*, an *English*
- Mr. *Reynard Fox*, a *Scotch*
- Mr. *Woolf*, a *Roman*
- Friend *Tea* and *Nay Racoon*, a *Pensilvanian*
- Myn Heer *Water Rat*, a *Dutch*
- Mr. *Monkey*, a *French*

Bird.
- Mr. *Raven*, a *Mungrel Protestant*
- Mr. *Peacock*, a *Canary*
- Mr. *Sparrow*, a *Hedge*
- Mr. *Porcupine*, a *Goal*
- Mr. *Water-wag-tail*, a *Whore's*
- Mr. *Kite*, a *Rapa-Ree*

The Court being thus orderly set, Silence Commanded, the Prisoners were Arraign'd, and their Indictments Read by *Tom Tit*, Clerk of the Crown: After which, the *Parrot*, Attorney General, and chief Speaker for the King, opened their Indictment thus:

'May it please your Lordship, and this 'Honourable Court: The Two Prisoners at 'Bar, Sir *Roger Magpye*, Knight and no Gen-'tleman, and *Robert Sterling*, alias *Black-'Bird*, Esq; stand Indicted as false Traytors 'and grievous Malefactors, contrary to the 'Peace of our Soveraign Lord the King, have 'with their Idle Chattering, set our Bills on 'edge, and made it their Business (in this 'dangerous Time, wherein the Peace and

'Tranquility of the Kingdom hangeth on ſo 'ſlender a Bough) to Sow the Seeds of Sedi-'tion, ſhake the Root of the Royal Oak, where-'in the *Eagle* hath built his Neſt, and (by 'kindling a Spark of Animoſity) to ſet on fire 'the whole Kingdom of Birds: Therefore, 'in Name and Authority of our Soveraign 'Lord the Royal *Eagle*, I require Juſtice to 'be executed on the Priſoners according to 'utmoſt extremity of the Law.

On this the Lord Chief Juſtice *Hawk* began to look grim, and after ſome ſharp and noiſome Words and Threats, asked the Priſoners, whether they were Guilty or not.

The *Magpye*, being the Bird in Faſhion, began to clear himſelf firſt, in indirect terms; telling, That the *Black Bird* gave him the firſt Affront and Provocation, by throwing Dirt at his white Feathers, in the Streets of *Troynovant*, whilſt he was taking care for nothing but the Feathering of his Neſt, as all *Coffee-Polian* Birds, could teſtifie.

But the *Black-Bird* reply'd thus: 'I do 'acknowledge and teſtifie, That at the time 'I threw this late Kennel Dirt (which I had 'wrapt up in a ſheet of Paper) at the Lazie 'Magpye, he and I were good Friends from 'the Bill out: But the intollerable provoca-'tions of ſome Ambitious *Magpyes* our Tribe 'have met with formerly, are ſtill freſh in 'our Remembrance; and the Feud now is 'ſo great, and become ſo natural, that it is 'as eaſie to reconcile Light with Darkneſs, 'as to make us good Friends, till they throw 'by their white Feathers, and give over a 'great many more of their affected Geſtures. 'But ſince I gave them the laſt Affront, they 'have accuſed us of Treaſon againſt the Line 'of our Royal King, as being acceſſary to 'the twiſting off the Head of the beſt of 'Eagles, whilſt it is known to the Right Ho-'nourable Judges, *Hawk*, *Cuckow*, and *Batt*, 'that the Actors of that dreadful Tragedy 'were *Storks*, *D*——, and *Moles*.

Mr. *Magpye*. Your Sect is never at quiet, you are ſtill affronting our Lordſhips, you are an inferior Crew of Seditious Sciſmaticks; you are all *Publicans*, and cannot live in Peace under any King; you convene privately in Flocks under Hedges, and at a dark and ſhady Grove, called *Coffee-Polian Boriale*, where in ſeveral Cluſters of *Tub-Chanters*, you Plot nothing but Miſchief, and Sow Sedition.

Black Bird. Theſe are all Forgeries, the Bench knoweth the contrary, at leaſt thoſe who know the Hiſtory of the Times, and preſent State of the Kingdom. But one of your over-grown *Magpyes* pick'd up a ſtately *Lapwing* with a Pyebald Top-Knot near the Sea Coaſt, and carrying to the *Belzebub*-Tavern, near the *Rooks-Cloyſter*, by the *Weſtern-Gate*, got her with Egg of a young *Jacobite*, but as ſoon as ſhe began to look big-bellied of a new Plot, he run away and left the Society to look after the Chick: But had not the Egg been Birth-cruſh'd on the *Triple Tree*, it might have been hatcht to a *Cockatrice*, and brought the whole Kingdom to Confuſion.

The *Magpye* began here to Prattle, and clear his *Cabal* of the Accuſation, but the Evidence being a clear demonſtration, Judge *Cuckow* Commanded Silence; telling, That he might be aſham'd to ſpeak in the behalf of ſo pernicious a Patron; and that the Canonical *Cock* had turn'd his back upon the Bantling, and fled to a Deſart, and that the Kingdom would look after the young *Mag*.

Black-Bird. There are many *Magpyes* in this Kingdom of Birds, who will not Pray for the *Eagle*, their juſt and lawful King; but no *Black-Birds* are of that Stamp: yet we would gladly ſmother the Infirmities of the *Magpyes*, becauſe the greater part of them are truly Honeſt, Juſt, and Well-meaning Birds, and were always againſt joyning with the *Cormorant*, that Bird of Prey, in ruining their Brethren the *Black-Birds*.

Magpye. We ſhould be beholding to your general Charity, were there any thing in it but to wheedle the Court into a belief of your good Nature; whereas you are nothing inferior to any Tribe, in your ill-natur'd, domineering, and inſulting Spirit, for you Stigmatize our Holy *Ephod* with the name of, *The Whore of* Babel's *Smock*; our *Temple* Muſick you term, *Scotch Bag-Pipes*, and *Catholick*

lick Whistles, &c. these Expressions savour of the *Roman Woolf*, and the Spirit of Envy. And tho' I acknowledge, that the *Black-Birds* came over to this Kingdom from *Geneva* and *Heidleburgh*, before our Community were well settled, yet the *Magpyes*, ever since their firm Establishment in *England*, have been very Loyal, for had the *Italian Vulture* continued King still, we had been obsequious to his absolute Commands, rather than unfaithful to our Allegiance.

Black-Bird. 'Tis enough, whoever be King, the *Magpyes* will still prove Loyal, but in several Respects.

Attorney Gen. These Idle Reflections are not the end for which we came hither, and I require, in the Kings Name, the Execution of Justice upon these Two Malefactors, for striving to set the whole Kingdom of Birds by the Ears, and so raise a Civil Dissention in the Bowels of the Nation.

Mr. *Cuckow.* Mr. *Attorney* you shall.

L. Hawk. Have you any thing more to say in your own behalf, Mr. *Black-Bird?* and whether did you give the Lord *Magpye* the first affront?

Black-Bird. My Lord I have receiv'd one hundred Affronts for one.

L. Hawk. But are you the Bird that lately Chatter'd against a Reverend *Magpye.*

Black-Bird. I will not tell you, my Lord, you may find it out.

Mr. *Batt.* Give him his Oath upon it, he is an obstinate Fellow.

Black-Bird. Beg your Pardon Mr. *Batt*, I am not bound to Swear, for *Nemo tenetur jurare in suam injuriam.*

L. *Hawk.* What Country Bird are you?

Black Bird. A *Scotch* Bird.

L. *Hawk.* Few good of that Kind. Is there no Evidence here against him.

Attorney Gen. Very little.

L. *Hawk.* Call in the *Tropick*-Bird, he's an *Adamite*, he's Naked, he hath but one Feather, and that is in his Tail; he's an Innocent Bird, he'll speak Truth. You *Tropick Bird*, Is the *Black-Bird* Guilty or not? he is, I think.

Trop. Bird. By yea and by nay he is.

Mr. *Batt.* Show how he is Guilty.

Trop. Bird. How is that, Judge *Hawk?*

Mr. *Cuckow.* How can you say, that he is Guilty or not Guilty, unless you know the Crime for which he is Accused? and whether he hath done such things as are laid to his Charge?

Mr. *Batt.* Come, come, give him his Oath.

L. *Hawk.* He's very Honest, he was brought up a Bird of Grace in *Pensilvania*, at the Feet of *Gamaliel.*

Trop. Bird. I am not willing to Swear: but by *Yea* and by *Nay* the *Black-Bird* is Guilty: Hang him, hang him, as you did the *Partridge*, the other day.

L *Hawk.* I told you he was a Bird of Grace, he hath not Conscience enough to Swear:

Mr. *Batt.* But, I believe, can Lie damnably.

L. *Hawk.* Come you Members of the Jury, the *Black-Bird* is a very Seditious Bird, go out and consult upon the Evidence, which I think is very plain, therefore you can do no less than find him Guilty; for tho' the Evidence has not Sworn, yet I think his plain, honest, well-meaning Word is better than the *Oaths* of some hundreds that are unclean *Birds*

Mr. *Cuckow.* I think they are both as Guilty as other: The *Magpye* is no less an Offender than the *Black Bird.*

L. *Hawk.* The *Magpye* is an honest good Fellow, but the *Black-Bird* is a sneaking Seditious Son of a Common-wealth ——, Hang him, Hang him.

Mr. *Batt.* I think they are both Guilty alike.

Mr. *Attorney.* *Mutua Pugna, mutua pœna.*

Enter Members of the Jury.

L. *Hawk.* Who is Fore-man of the Jury?

Mr. *Rh. Fox.* I am, and I think they are both equally Guilty.

L. *Hawk.* Go out again, for the *Magpye* is a very honest Bird.

Exeunt Members of the Jury

Mr. *Attorney.* I do not understand this when Feud and Favour pervert and Eclipse the Statutes of the Law.

Cuckow. No nor I either.

Enter Jurors.

L. *Hawk.* Who's Fore-man now?

Mr. *Woolf.* I am, and they are both equally Guilty.

L. *Hawk.* So you told me before, go out again, the *Black-Bird*'s a *Scotch* Knave and great Loon; but Mr. *Magpye* is an honest downright jolly good Fellow.

Exeunt Jurors.

Mr. *Batt.* There's more Law than Justice here.

Mr. *Cuckow.* Yea, by half.

Enter Jurors.

L. *Hawk.* Who's Foreman of the Jury now?

Ap Goat. I am, and the *Magpye* is found Guilty.

L. *Hawk.* Go out again, and I will serve you as much another time, for the *Magpye* is a very honest *English* Bird.

Exeunt Jurors.

Mr. *Batt.* I wish I had not been upon the Bench to day.

Mr. *Attor.* What need is there to Plead, when the Judge is determined what to do before-hand.

Enter Jurors.

L. *Hawk.* Who's Foreman of the Jury?

Mr. *Weesel.* I am, and the *Black-Bird* is found Guilty.

L. *Hawk.* Thou art an Honest Fellow.

Mr. *Batt.* I think it strange to see a Jury bring in contrary Verdicts in one and the same Information.

Mr. *Cuckow.* My Lord, you have had your Will thrice, let me have my Will once. You Members of the Jury, go out once more before Sentence be past, choose an honest Foreman, and let him speak what he knoweth to be true and right. *Exeunt Jurors.*

L. *Hawk.* It shall be as I please, and I will pronounce what Sentence I will.

Mr. *Batt.* My Lord, there is no need to trouble any more, when you are sufficient to be Judg, Jury, Evidence, and the *Devil* and all.

L. *Hawk.* So I am.

Enter Jurors.

Who's Foreman now?

Mr. *Monkey.* I am; and to speak without Hypocrisie, both the *Magpye* and the *Black-Bird* are guilty of Dissimulation and Dilection; and, to tell you the Truth, Mr. *Black-Bird* hath stoln too many of my Tricks, and we will go out no more, take this for our Verdict.

L. *Hawk.* Well Mr. *Black-Bird*, you are insome measure beholding to Mr. *Monkey*, for putting you in the same *Series* with my special Friend Mr. *Magpye*. But have you any thing to say before I pass Sentence?

Bl. Bird. I beg the benefit of my Clergy.

L. *Hawk.* Let him have it.

Here the Ordinary bringeth the Book of Comm. Pray.

Bl. Bird. O! it is an unclean Book, I cannot read it; I had rather run the hazard of the hardest Sentence.

L. *Hawk.* *An Legit?*

Mr. Ord. *Vult potius perdi quam legere.*

L. *Hawk.* 'Tis well enough, come, come Mr. *Magpye*, what have you to say before Sentence be past?

Magpye. I beg for Transportation.

L. *Hawk.* Whither?

Magpye. To *New-Albion* or *Pensilvania*; that I may be a means to reduce those Stuborn Schismaticks, and bring them into the Bosom of our Holy Mother the Church.

L. *Hawk.* Silence, silence, Executioner, without delay, take this Reverend *Magpye*, and let him be Transported with the first Flock that Soars to *New Albion*, that old *Albion* may be no more plagu'd with the Chattering between him and Mr. *Black-Bird*. And as for the Seditious *Black-Bird*, he is to be carried to the Place from whence he was brought, and there to be tyed to a tumbling Tree, his Feathers pull'd off from his back, and whips with a Canonical Girdle between the *Triple-Tree* and the *Royal Oak*.

This hard Sentence sounded harsh in the Ears of the poor *Black-Bird*, and seem'd very unjust to all the Bench. But Sir *Reynard* the *Fox* began to grin and be in a Passion, for being slighted in his first Verdict, and gave L. C. J. *Hawk* some short Language, whereat his Lordship Commanded him to be leer'd in the *Bail-Dock*, but before the Bench was aware, he pull'd his Lordship by the Neck, and Bit off his Honourable Head. Mr. *Owl* the Hangman finding himself Cheated of the *Magpye*'s Cloaths, carried away the *Cuckow* in his Clutches; and Mr. *Weesel* put an end to the poor Night-*Bat*: Mr. *Black-Bird* making his escape to a *Malt*-Barn. Then the famous *Sanhedrim* ended in Confusion, none regreting the Death of the Honourable Judicatory but *Magpies*, *Termachens*, and *Lapwings*; yet, in obedience to the Law, Mr. *Magpye* went to *New-Albion*, where now you may find him if you go in time. *Et sic finitur fabula.*

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